

EXHIBIT 3

<p>1 UNITED STATES DISTRICT COURT 2 DISTRICT OF MINNESOTA</p> <p>3 -----</p> <p>4 Fair Isaac Corporation,) a Delaware Corporation,) File No. 16-cv-1054(DTS)</p> <p>5 Plaintiff,)</p> <p>6 v.)</p> <p>7 Federal Insurance Company,) Courtroom 14W an Indiana corporation,) Minneapolis, Minnesota 8 and ACE American Insurance) Monday, February 27, 2023 Company, a Pennsylvania) 9:00 a.m. 9 Corporation,)</p> <p>10 Defendants.)</p> <p>11 -----</p> <p>12</p> <p>13</p> <p>14 BEFORE THE HONORABLE DAVID T. SCHULTZ UNITED STATES DISTRICT COURT MAGISTRATE JUDGE</p> <p>15</p> <p>16 (JURY TRIAL PROCEEDINGS - VOLUME VI)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Proceedings recorded by mechanical stenography; 23 transcript produced by computer.</p> <p>24 * * *</p> <p>25</p>	<p>1 INDEX</p> <p>2 PAGE</p> <p>3 HENRY MIROLYUZ 971 Examination By Mr. Hinderaker</p> <p>4 CLAUDIO GHISLANZONI 1046 Cross-Examination By Mr. Hinderaker 5 Direct Examination By Ms. Godesky 1131 Recross-Examination By Mr. Hinderaker 1161 6 Redirect Examination By Ms. Godesky 1170 Recross-Examination By Mr. Hinderaker 1171</p> <p>7 JOHN TAYLOR 8 Examination By Mr. Hinderaker 1174</p> <p>9</p> <p>10</p> <p>11 DEFENDANTS' EXHIBITS REC'D 117 1080 118 1082 119 1096 120 1088 121 1088 122 1088 123 1088 124 1088</p> <p>15 PLAINTIFF'S EXHIBITS REC'D 16 39 1140</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 APPEARANCES:</p> <p>2 For Plaintiff: MERCHANT & GOULD P.C. BY: ALLEN W. HINDERAKER 3 HEATHER J. KLIEBENSTEIN PAIGE S. STRADLEY 4 MICHAEL A. ERBELE JOSEPH W. DUBIS 5 GABRIELLE L. KIEFER 150 South Fifth Street, #2200 6 Minneapolis, Minnesota 55402</p> <p>7 For Defendants: FREDRIKSON & BYRON BY: TERRENCE J. FLEMING 8 LEAH C. JANUS CHRISTOPHER D. PHAM 9 RYAN C. YOUNG PANHIA VANG 10 200 South Sixth Street, #4000 Minneapolis, Minnesota 55402</p> <p>11 O'MELVENY & MYERS LLP 12 BY: LEAH GODESKY ANTON METLITSKY 13 DARYN E. RUSH ROXANA GUIDERO 14 Times Square Tower 7 Times Square 15 New York, New York 10036</p> <p>16 Court Reporters: RENEE A. ROGGE, RMR-CRR KRISTINE MOUSSEAU, CRR-RPR 17 MARIA V. WEINBECK, RMR-FCRR PAULA RICHTER, RMR-CRR-CRC 18 United States District Courthouse 300 South Fourth Street, Box 1005 19 Minneapolis, Minnesota 55415</p> <p>20 * * *</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 9:00 A.M.</p> <p>2</p> <p>3 (In open court without the Jury present.)</p> <p>4 THE COURT: Please be seated. Good morning, 5 everyone.</p> <p>6 The record should reflect that we are in the 7 courtroom outside the presence of the jury. As I understand 8 it, there is a couple of issues, at least one, that we need 9 to take up now before we begin with testimony and that I 10 think is the interrogatory answer.</p> <p>11 Is that correct, Mr. Hinderaker?</p> <p>12 MR. HINDERAKER: Yes, Your Honor.</p> <p>13 THE COURT: Okay. And tell me what it is you plan 14 to put in and, if it's not obvious, why it's relevant.</p> <p>15 MR. HINDERAKER: This is a copy of it.</p> <p>16 THE COURT: Yeah, I've looked at it. Go ahead and 17 bring it up. Well, what are you proposing to do with this 18 exactly?</p> <p>19 MR. HINDERAKER: Well, mister -- well, I guess it 20 comes up in Mirollyuz's deposition because Mr. Mirollyuz is 21 the one who verified it.</p> <p>22 THE COURT: Right.</p> <p>23 MR. HINDERAKER: During the course of the 24 deposition we had an unsigned copy, and during the 25 deposition I asked Mr. Mirollyuz, and he did verify it in the</p>

<p style="text-align: right;">1017</p> <p>1 through a witness, and the witness is going to have to be</p> <p>2 somebody who has knowledge or foundation for the document."</p> <p>3 And so through the first eight witnesses in this</p> <p>4 trial, we planned our case based on FICO's objection and</p> <p>5 then the Court's directive.</p> <p>6 And so last night FICO sent us a list of about 20</p> <p>7 different exhibits that they want to use with</p> <p>8 Mr. Ghislanzoni. He is our corporate representative, but he</p> <p>9 is not a 30(b)(6) deponent. He has not been educated on</p> <p>10 topics outside his personal knowledge.</p> <p>11 So the group of e-mails that were submitted to the</p> <p>12 Court, there is an evidentiary issue separate and apart from</p> <p>13 foundation for one of them, but all of them predate his time</p> <p>14 at the company. He is not on any of them, and he can't</p> <p>15 speak to what happened. And it's completely prejudicial to</p> <p>16 be confronting our corporate representative with e-mails and</p> <p>17 asking him questions about things that he has no knowledge</p> <p>18 of.</p> <p>19 Relatedly, Mr. Hinderaker also alluded to the fact</p> <p>20 that they want to try to use interrogatories with</p> <p>21 Mr. Ghislanzoni. They disclosed last night these are</p> <p>22 interrogatories that show various gross written premium</p> <p>23 levels run through certain applications. Mr. Ghislanzoni</p> <p>24 doesn't know anything about that. He wasn't involved in the</p> <p>25 process of running that data. And FICO took three or four</p>	<p style="text-align: right;">1019</p> <p>1 THE COURT: Right.</p> <p>2 MR. HINDERAKER: And in terms of jumping the gun</p> <p>3 on the interrogatories, they also tell us when the</p> <p>4 applications -- when Blaze Advisor was no longer used. And</p> <p>5 this goes to our earlier conversation. We have to clean</p> <p>6 them up with all the --</p> <p>7 THE COURT: Understood. Yes.</p> <p>8 Okay. Let's bring in the jury.</p> <p>9 By the way, one of the jurors informed me that</p> <p>10 they are perfectly happy with a 60-minute lunch break, so we</p> <p>11 will go to 60 minutes.</p> <p>12 MR. HINDERAKER: I hope they don't shorten it up</p> <p>13 anymore.</p> <p>14 THE COURT: We will be down to 10 minutes by the</p> <p>15 end of the week.</p> <p>16 THE CLERK: All rise for the jury.</p> <p>17 (Jury enters.)</p> <p>18</p> <p>19 (In open court with the Jury present.)</p> <p>20 THE COURT: Be seated.</p> <p>21 You may proceed, Mr. Hinderaker.</p> <p>22 BY MR. HINDERAKER:</p> <p>23 Q. I have given you Exhibit 189. It has the heading CSI IT</p> <p>24 Summit. I acknowledge that it bears a date of August 2006.</p> <p>25 Have you seen this before?</p>
<p style="text-align: right;">1018</p> <p>1 days of 30(b)(6) deposition testimony of multiple deponents</p> <p>2 on how that data was run, where it came from and what it</p> <p>3 means.</p> <p>4 So if they wanted party admissions about, you</p> <p>5 know, those gross written premium numbers, they could have</p> <p>6 designated that deposition testimony. Apparently, they</p> <p>7 don't like the deposition testimony, so, instead, they would</p> <p>8 like to prejudice our case by confronting our corporate</p> <p>9 representative with rogue responses that he had no</p> <p>10 involvement of, no knowledge of and would be completely</p> <p>11 confused by.</p> <p>12 THE COURT: Okay. Mr. Hinderaker, very briefly.</p> <p>13 You're going to have to lay foundation.</p> <p>14 MR. HINDERAKER: Absolutely. So there will be --</p> <p>15 a foundation will be laid through Mr. Ghislanzoni. It will</p> <p>16 or it won't.</p> <p>17 THE COURT: Okay.</p> <p>18 MR. HINDERAKER: He testified at his deposition,</p> <p>19 "A decision was made to take a copy of the Canadian</p> <p>20 application and use it as a base to create an Australian</p> <p>21 application."</p> <p>22 In his role as the architect overall, he was</p> <p>23 knowledgeable and participated in the decisions of how and</p> <p>24 when to remove Blaze Advisor. He is not testifying as a</p> <p>25 corporate representative or as a 30(b)(6), but as a person.</p>	<p style="text-align: right;">1020</p> <p>1 A. No.</p> <p>2 Q. Okay. So when you picked up your involvement with Blaze</p> <p>3 Advisor, was this part of the background information --</p> <p>4 information that you reviewed?</p> <p>5 A. At that point, no, it was not, because at that point in</p> <p>6 time the decision to use the Blaze Advisor was already made</p> <p>7 and the work on the project was already started. So my role</p> <p>8 at that time was a developer. So I was really boots on the</p> <p>9 ground to help with the development of Blaze Advisor.</p> <p>10 Q. I see.</p> <p>11 A. I was not an architect at that point of time.</p> <p>12 Q. Mm-hmm. Who, who was the person leading the Blaze</p> <p>13 Advisor project in November of 2006?</p> <p>14 A. Owen Williams who was one of the department managers at</p> <p>15 CSI. He was leading the Blaze Advisor project.</p> <p>16 Q. We've handed you Exhibit 191.</p> <p>17 A. Yes, I do.</p> <p>18 Q. Okay. And from the metadata, I believe you were the</p> <p>19 author of that.</p> <p>20 From the metadata, I believe you are the author of</p> <p>21 this. Would you agree?</p> <p>22 A. Oh, yes.</p> <p>23 Q. Okay. And what was the purpose of your creation of</p> <p>24 Exhibit 191?</p> <p>25 A. After the success of the business rules project for the</p>

1021**1023**

1 ARP 2, the purpose of this document is to market the
 2 business rules technology -- business rules across the
 3 enterprise, across the Chubb.
 4 Q. And that was the purpose. And what was the goal to be
 5 achieved from that purpose?
 6 A. We thought that using the business rules can bring the
 7 benefits to the IT teams across the Chubb. So the goal is
 8 as they become familiar, they would start implementing or
 9 using the business rules technology that is making their
 10 life simpler.
 11 Q. Okay. So the -- was there a benefit to -- separate from
 12 the simpler life of the underwriters, was there a benefit to
 13 the business that you were advancing?
 14 A. Benefit would be, from my view, would be quicker
 15 turnaround of the projects; thus, we can deploy the business
 16 requests significantly quicker, as was demonstrated by the
 17 ARP 1 project.
 18 Q. And from your point of view, what was the benefit to the
 19 business when you were able to do that?
 20 A. Again, the changes or business changes can be deployed;
 21 thus, whatever benefit is intended for that particular
 22 implementation can be achieved significantly faster.
 23 Q. Does that mean then that new policies can be put to
 24 market faster?
 25 A. Not necessarily, but could be more precise guidance or

1 A. Okay.
 2 Q. And you wrote Introduction and Scope 1.1?
 3 A. Correct.
 4 Q. All right. So you start that with, "The purpose of this
 5 document is to illustrate." And then tell me what you mean
 6 by, "Such as increasing agility to implement the business
 7 change and reducing time to market the new products and
 8 services."
 9 First paragraph.
 10 A. So we believed at the time of --
 11 COURT REPORTER: I lost you.
 12 THE WITNESS: Sorry. I believed at the time I
 13 wrote this document that implementation of the business
 14 rules technology --
 15 MR. FLEMING: I'm sorry. I thought you were
 16 saying 40.
 17 BY MR. HINDERAKER:
 18 Q. Let's try again.
 19 A. Yeah. So at the moment of writing this document, I
 20 believed that use of the business rules technology would
 21 enable IT team to deploy any business request to production
 22 or to come to market significantly faster as compared with
 23 traditional technologies employed at Chubb at a that point
 24 in time.
 25 Q. Say what?

1022**1024**

1 more precise scoring for that particular example. It
 2 doesn't necessarily impact the speed or increase on the
 3 business.
 4 Q. Let's back up a second. So the reason for having Blaze
 5 Advisor is that it has an ultimate benefit for the business.
 6 A. Correct.
 7 Q. Correct?
 8 A. Ultimately, yes.
 9 Q. Yes, ultimately. And one of the benefits of, I think
 10 that you just said, is that it makes people lives easier?
 11 A. Correct.
 12 Q. Correct? And the people that you're referencing are the
 13 underwriters?
 14 A. No. I'm referencing the IT teams because they're
 15 ultimately responsible. Again, I'm talking -- my role was
 16 from the IT perspective.
 17 Q. Okay.
 18 A. I would not be able to speak for any business benefits
 19 achieved through the use of the Blaze Advisor technology or
 20 business rules technology. I do speak around the
 21 benefits -- that's what I speak in this document, is where
 22 the business rules technology could benefit from the IT
 23 point of view.
 24 Q. Anyway, that's what I said. 4 of 42 and Bates number
 25 0004.

1 A. It increases the agility of the project and increases --
 2 and reducing time to market.
 3 Q. It increases the agility of the business?
 4 A. Agility of implementation. Again, as you can see
 5 specifically here, it is agility to implement to business
 6 changes.
 7 So I'm not speaking to the business benefit for
 8 this. This specifically says if I have a request from the
 9 business to implement particular change, I can deploy it, I
 10 can implement it significantly faster and deploy it
 11 significantly faster for business to use.
 12 Q. As a consequence, as you say, that reduces the time to
 13 market for new products and services, correct?
 14 A. If it's implemented in the Blaze Advisor. Again, big
 15 disclaimer.
 16 Q. And you just, you just, you just said the phrase, "if
 17 implemented in Blaze Advisor."
 18 And I want to turn you to the next page. And you
 19 have a heading, "What are business rules?" And then you
 20 have a description, you know, four paragraphs down,
 21 "Traditionally embedded" -- "traditionally embedded inside
 22 code." And then you say -- and then you have the next
 23 paragraph, "Externalizing the business rules to be a
 24 structured decision management."
 25 Is that what you're meaning by if Blaze Advisor is

1025**1027**

1 used because it externalized the business rules?
 2 A. Correct. And that is how it was marketed to us by FICO
 3 when we bought the tools.
 4 Q. And then -- let's see. And then on the same page at the
 5 bottom, "Enhance business performance by." And Number 1 is,
 6 "Increasing Analytical Ability."
 7 Over time, can you tell me how Blaze Advisor
 8 applications were used to increase analytical ability?
 9 A. Profitability indicator is an example of such
 10 application which provides the ability to determine the
 11 severity of the risk as underwritten by Chubb.
 12 Q. Okay. And then Number 2, Automate Decisions by, and
 13 then it says, "Automating High-Volume, Low-Risk Decisions."
 14 Is that a component of -- tell me what applications of Blaze
 15 Advisor used that.
 16 A. DecisionPoint.
 17 Q. How about Automatic Renewal?
 18 A. Automatic Renewal -- it renews all the policies, so I
 19 wouldn't qualify it as low risk. It's entire book of
 20 business, whereas DecisionPoint is for specific low-risk,
 21 high-volume business.
 22 Q. And then II is "Establishing Uniform Decisions Across
 23 Multiple Functions, Channels and Business Touch Points."
 24 What applications using Blaze Advisor did that?
 25 A. Essentially, again, profitability indicator, because it

1 A. I prepared the deck in collaboration with Michael Sawyer
 2 from FICO.
 3 Q. Okay. All right. Let me just go to the Bates number
 4 57208?
 5 A. 50208.
 6 Q. The second page.
 7 A. Yep.
 8 Q. And there is this quote from Donald Light. Why did you
 9 include that quote in the presentation?
 10 A. I felt that the term "business rules" was used a little
 11 bit loosely. People do not realize or do not have complete
 12 understanding about what the business rules really is versus
 13 the term of "decision business" and "decision-making
 14 process" is a better illustration or a better terminology
 15 for the technology itself. I think it's gives the people
 16 better insight into that.
 17 Q. And is that because as a consequence of the business
 18 rules application, it enables a company to make decisions?
 19 A. Yes. Same as wrote in the EcoSystem document. Better
 20 uniform decisions.
 21 Q. Let me turn to the next page, 209. And, again, these
 22 are your statements in the slides?
 23 A. Correct.
 24 Q. All right. So we don't need to read them to each other.
 25 But under the Potential Future Applications, there is a

1026**1028**

1 is used in many different places. Automatic Renewal, CSI
 2 Express, DecisionPoint. That's an example of uniform
 3 decision about the risk.
 4 Q. It would be separate from profitability indicator. Is
 5 this also true for the underwriting guidance for CSI
 6 Express?
 7 A. Underwriting guidance is developed -- yes, it is correct
 8 in terms of application. But since it speaks about multiple
 9 functions and touch points, decision points, my view at
 10 least, it's a better example.
 11 Q. Okay. CSI Express and underwriting guidance does
 12 establish underwriting decisions?
 13 A. Correct. But in context of one application decision is
 14 not shared across anywhere else.
 15 Q. This is Exhibit 192 for the record. It's a cover e-mail
 16 having a subject line of "Creating and Managing Business
 17 Rules, CoE, Henry Miroluz, Chubb," dated 9/16/2009, and
 18 then the attachment bearing Bates numbers FICO0057207
 19 through 57222, bears as a title "FICO Forum: Decision
 20 Management Tools User Group, September 16-18, 2009." It
 21 includes on the title page, "Henry Miroluz, technical
 22 analyst, business rules CoE, Chubb."
 23 Do you recall this presentation, Mr. Miroluz?
 24 A. Yes, I do.
 25 Q. Okay. Did you prepare this entire deck?

1 heading, Cross/Upselling?
 2 A. Yes.
 3 Q. Was that application implemented during your time at
 4 Chubb?
 5 A. Not to my knowledge. It was considered, as you can see
 6 it here, but I don't believe it was implemented.
 7 Q. Would it have been a functionality of CSI Express?
 8 A. Correct.
 9 Q. And then the next header is Predictive Models. Was that
 10 implemented at CSI Express -- was that implemented at Chubb?
 11 A. Yes, it was. Profitability indicator.
 12 Q. And if we go to the next page, 57210, you're giving a
 13 case study of Automated Renewal I?
 14 A. Correct.
 15 Q. Thank you. And in this, with respect to Automated
 16 Renewal I on this slide, the overall business goal is to
 17 increase the percentage of automated renewal submissions.
 18 Was that accomplished?
 19 A. Correct. Yes, it was.
 20 Q. And it goes on to say that the policies that are
 21 automatically renewed, the more time the underwriter has to
 22 develop and produce additional business or handle
 23 additional -- produce additional business or handle
 24 additional business. And that also was achieved?
 25 A. I believe it was.

1029

1 Q. And then there a header, "Objectives/Benefits, and
2 Reach." Were those achieved as well?
3 A. I cannot say if it was completely achieved or not.
4 Q. I'm sorry?
5 A. I cannot say if it was completely achieved or not. It
6 was the goal to achieve those benefits. But was it achieved
7 100 percent? I'm not sure. I cannot speak to that.
8 Q. Okay. Do you know if it was achieved to some extent?
9 A. To some extent, yes, it was.
10 Q. You have been handed Exhibit 196.
11 COURT REPORTER: 193.
12 BY MR. HINDERAKER:
13 Q. I'm sorry. 193. Thank you. And an Introduction to
14 Business Rules, Improving Performance Through Decision
15 Management. And you, sir, are one of the presenters; is
16 that right?
17 A. That is correct.
18 Q. And do you recall --
19 A. Oh, yes.
20 Q. -- the context of this? What was it?
21 A. It was a presentation on one of the forums which was
22 hosted by FICO to talk about the business rules and Chubb
23 experience in particular.
24 Q. All right. So this was an external presentation outside
25 of Chubb?

1030

1 A. Yes.
2 Q. Then the next -- the next page has the next slide,
3 Business Rules Overview, CoE, October of 2009. Are you the
4 author of the slides that follow that?
5 A. If my recollection is correct, it was a collaborative
6 effort, so we all work. I mean, I would have provided the
7 information, but we all worked on all the presentations all
8 together.
9 Q. Is it accurate to say that you were one of the
10 collaborators on this entire set of slides?
11 A. Correct.
12 Q. So you had an input into all of the slides?
13 A. Yep. At least I was able to review it and provide the
14 feedback, if necessary.
15 Q. If you disagreed, you could say so?
16 A. Yeah.
17 Q. If you would go to the Bates number that has 0012 as its
18 ending.
19 A. Okay.
20 Q. You'll actually get the original 12 of this slide as
21 well. You see that slide bears the heading, "What is
22 Decision Management? FICO's Point of View."
23 A. Yep.
24 Q. And then it has five dimensions of Decision Management?
25 A. (Moves head in affirmative manner.)

1031

1 Q. And my question is: From the deployment of Blaze
2 Advisor and the particular Blaze Advisor applications at
3 Chubb, can you describe for me how the Chubb Blaze Advisor
4 applications align with these five points?
5 A. I'm not sure I follow the question the way it's stated.
6 Q. Let me say it this way: Blaze Advisor applications that
7 were implemented by Chubb aligned with the -- made
8 decisioning more precise?
9 A. So again, Profitability Indicator, as I said before, is
10 a great -- is an example of precise decision to identify
11 high-risk policies or customers.
12 Q. And Chubb's implementation of Blaze Advisor applications
13 made decisioning more consistent?
14 A. For the lines which were implemented. So the Blaze
15 Advisor for Profitability Indicator.
16 Q. That's another example?
17 A. Yep.
18 Q. CSI Express is another example?
19 A. CSI Express, again, is too in general, but Blaze
20 component is used for a specific line of -- as I said
21 before, specific line of business. So for those implemented
22 for Blaze, yes, it makes decisioning much more precise.
23 Q. And then another dimension of decisioning is agility.
24 And you mentioned that in your earlier slides --
25 A. Correct.

1032

1 Q. -- as one of the benefits of Blaze Advisor, deploying
2 Blaze Advisor?
3 A. Correct. We were able to implement the changes quicker
4 than what we were able to do it before.
5 Q. And another dimension of using Blaze Advisor is speed to
6 market. You were able to accomplish some of that?
7 A. Correct.
8 Q. And if you would -- the e-mail itself is 5/27/15, but
9 then the e-mail has 5/21/15, just to be clear.
10 And if you would go to the e-mail Bates numbered
11 5271, looking at that profitability indicator. And,
12 Mr. Mirolyuz, are you the author of this slide?
13 A. I could have provided the information for that slide.
14 However, I don't recall if I was the author or Mike created
15 the slide himself.
16 Q. So whether your fingers touched the keys or not, the
17 information on the slide is your information?
18 A. Correct.
19 Q. And then on the top left corner is the heading
20 "Initiative," and it lists various objectives, benefits?
21 A. Correct.
22 Q. And are you listed -- and then under the bottom left,
23 there's another cell, "Plus/Delta," and then under Plus it
24 says, "The defined business benefit was realized."
25 A. Correct.

1033**1035**

1 Q. Let's go to the next slide. And this one is talking
 2 about DecisionPoint, correct?
 3 A. Correct.
 4 Q. Okay. And, again, you list in the Initiative cell four
 5 business benefits to be achieved by the DecisionPoint
 6 application?
 7 A. Correct.
 8 Q. And then under Plus/Delta, you state that, "The defined
 9 business benefit was realized"; is that correct?
 10 A. That is correct.
 11 Q. Can you just tell us -- maybe we know, but what's the
 12 meaning of real-time quotes and bindable quote letter?
 13 A. That we can provide -- as requested, we can provide the
 14 quotes in real-time. They don't have to wait for -- the
 15 customers don't have to wait overnight to get a quote. They
 16 can receive it -- real-time is not absolutely correct. It's
 17 near real-time but within a reasonable time frame.
 18 Q. Do you know if Chubb has -- I'm just talking the big
 19 company Chubb -- undertaken the analysis to quantify the
 20 business value which is realized from Blaze Advisor
 21 applications?
 22 A. I cannot speak one way or another. I'm looking from the
 23 technical perspective. As I said before, the decision
 24 regarding using Blaze was already made before I started at
 25 Chubb.

1 is specifically that team.
 2 Q. That team. All right.
 3 So that's to whom it was presented. And then why
 4 was it being presented?
 5 A. Again, to inform them -- to develop the strategy and as
 6 well as a future roadmap in regards to the use of the
 7 Business Rules technology at Chubb.
 8 Q. Okay. And are you the author of the entire document
 9 then?
 10 A. With the input of information from others, but yes, I am
 11 the one who compiled it.
 12 Q. So it's fair to say, this is your document?
 13 A. Yes.
 14 Q. All right. If we could go to page 11, please, and that
 15 slide has a header, "2015 Business Rules Projects at Chubb
 16 (Active)." Are we on the same page?
 17 A. Yes.
 18 Q. All right. So the first line is "Corp" and then "PARS."
 19 Do you recall that?
 20 A. Correct.
 21 Q. What is it?
 22 A. It's a CBS, corporate -- it's a Premium Booking. So the
 23 name acronym was the PARS, and we called it CBS, Corporate
 24 Business Division.
 25 Q. Is Premium Booking and Corporate PARS the same thing?

1034**1036**

1 Q. You have Exhibit 195. It says, "Chubb Enterprise
 2 Architecture - Business Rules Strategy/Roadmap."
 3 A. Yeah.
 4 Q. I will just represent that the metadata suggests this is
 5 a July 21, 2017, document with yourself as the author. Do
 6 you recall it?
 7 A. Yes, I do.
 8 Q. Okay. What was the purpose of this document,
 9 Exhibit 195?
 10 A. The purpose of this document is to summarize the
 11 strategy around the business or provide a strategy in a
 12 future roadmap regarding the business rules for the Chubb at
 13 the Enterprise level.
 14 Q. Is this an internal presentation to Chubb?
 15 A. Correct. Specifically it is limited to the Chubb
 16 Enterprise Architecture. So it's not even presented to the
 17 broader audience. It's specifically intended for the
 18 Enterprise Architecture team.
 19 Q. The Enterprise Architecture team, is that speaking of --
 20 speaking to IT personnel who have Enterprise-wide
 21 responsibilities?
 22 A. In Chubb -- all Chubb architects. All the architects
 23 were the Enterprise architects. It was not separated by the
 24 business unit, so anybody who had the title "architect"
 25 would be considered to be the Enterprise architect. So this

1 A. Yes, it is the same thing.
 2 Q. And that project was completed per this slide?
 3 A. Correct.
 4 Q. Okay. And why did you choose DecisionPoint and
 5 Profitability Indicator as the applications to highlight in
 6 the presentation?
 7 A. Profitability Indicator was our first attempt to
 8 implement predictive models, risk assessment in Blaze. By
 9 itself, it was an interesting project, and people had raised
 10 an interest on how we did it and the benefit of using it.
 11 Q. Mm-hmm (Yes).
 12 A. DecisionPoint was the project which we were using the
 13 latest and greatest in terms of lessons learned and
 14 experiences. So we developed, actually in collaboration
 15 with working with FICO as well, some assistance there,
 16 application using --
 17 (Court reporter asked for clarification.)
 18 THE WITNESS: -- agile methodologies.
 19 MR. FLEMING: Agile.
 20 BY MR. HINDERAKER:
 21 Q. Is that what you mean, agile, A-G-I-L-E?
 22 A. Yeah.
 23 Q. Agile methodologies?
 24 A. Yeah. And we were -- I mean, it was -- again, a number
 25 of capabilities implemented in the DecisionPoint was

<p>1 UNITED STATES DISTRICT COURT 2 DISTRICT OF MINNESOTA</p> <p>3 -----</p> <p>4 Fair Isaac Corporation,) a Delaware Corporation,) File No. 16-cv-1054(DTS)</p> <p>5 Plaintiff,)</p> <p>6 v.)</p> <p>7 Federal Insurance Company,) Courtroom 14W an Indiana corporation,) Minneapolis, Minnesota 8 and ACE American Insurance) Thursday, March 2, 2023 Company, a Pennsylvania) 8:47 a.m. 9 Corporation,)</p> <p>10 Defendants.)</p> <p>11 -----</p> <p>12</p> <p>13</p> <p>14 BEFORE THE HONORABLE DAVID T. SCHULTZ 15 UNITED STATES DISTRICT COURT MAGISTRATE JUDGE</p> <p>16 (JURY TRIAL PROCEEDINGS - VOLUME IX)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 Proceedings recorded by mechanical stenography; 23 transcript produced by computer.</p> <p>24 * * *</p> <p>25</p>	<p>1 I N D E X</p> <p>2 PAGE</p> <p>3 N. WILLIAM PAUL WAID 4 Direct Examination By Mr. Hinderaker 1712 Cross Examination By Ms. Godesky 1747 5 Redirect Examination By Mr. Hinderaker 1828</p> <p>6 KEVIN HARKIN 7 Direct Examination By Ms. Janus 1849 Cross-Examination By Ms. Kliebenstein 1871</p> <p>8 PAMELA LOPATA 9 Direct Examination By Ms. Godesky 1906 Cross-Examination By Mr. Hinderaker 1917</p> <p>10 MICHAEL SAWYER BY DEPOSITION</p> <p>11</p> <p>12 PLAINTIFF'S EXHIBITS REC'D 13 404A 1892 1177 1875 1178 1875 14 1179 1875</p> <p>15 DEFENDANTS' EXHIBITS REC'D 16 12 1821 30 1800 17 77 1756 172 1829 18 276 1818 283 1817 19 284 1817 293 1817 20 330 1810 343 1819 21 356 1857</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 APPEARANCES:</p> <p>2 For Plaintiff: MERCHANT & GOULD P.C. 3 BY: ALLEN W. HINDERAKER HEATHER J. KLIEBENSTEIN 4 PAIGE S. STRADLEY MICHAEL A. ERBELE 5 JOSEPH W. DUBIS GABRIELLE L. KIEFER 150 South Fifth Street, #2200 6 Minneapolis, Minnesota 55402</p> <p>7 For Defendants: FREDRIKSON & BYRON 8 BY: TERRENCE J. FLEMING LEAH C. JANUS 9 CHRISTOPHER D. PHAM RYAN C. YOUNG 10 PANHIA VANG 200 South Sixth Street, #4000 Minneapolis, Minnesota 55402</p> <p>11 O'MELVENY & MYERS LLP 12 BY: LEAH GODESKY ANTON METLITSKY 13 DARYN E. RUSH ROXANA GUIDERO 14 Times Square Tower 7 Times Square 15 New York, New York 10036</p> <p>16 Court Reporters: RENEE A. ROGGE, RMR-CRR 17 KRISTINE MOUSSEAU, CRR-RPR MARIA V. WEINBECK, RMR-FCRR 18 PAULA RICHTER, RMR-CRR-CRC United States District Courthouse 19 300 South Fourth Street, Box 1005 Minneapolis, Minnesota 55415</p> <p>20 * * *</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 March 2, 2023 8:47 A.M.</p> <p>2</p> <p>3 (In open court without the Jury present.)</p> <p>4 THE COURT: Good morning. Please be seated.</p> <p>5 All right. We're on the record outside the</p> <p>6 presence of the jury. I understand that we've got an issue</p> <p>7 with some late-added exhibits to the plaintiff's exhibit</p> <p>8 list. I've reviewed the exhibits.</p> <p>9 Let me ask, first of all, if there is a -- have</p> <p>10 the parties had a chance to meet and confer and resolve the</p> <p>11 issue?</p> <p>12 MR. HINDERAKER: No, we haven't, Your Honor.</p> <p>13 They came to us at like 11:30 last night.</p> <p>14 THE COURT: Okay.</p> <p>15 MS. GODESKY: Your Honor, Mr. Waid is in the</p> <p>16 courtroom. Is it possible for him to step out while we're</p> <p>17 talking about these documents?</p> <p>18 THE COURT: Sure.</p> <p>19 MS. GODESKY: Thank you.</p> <p>20 MR. HINDERAKER: Could I also clarify what we're</p> <p>21 talking about a little bit from our point of view?</p> <p>22 THE COURT: Sure.</p> <p>23 MR. HINDERAKER: Both parties have -- you know,</p> <p>24 there is a court order about when exhibits are to be filed</p> <p>25 with the Court. And both parties have been adding to the</p>

1892**1894**

1 A. Mm-hmm.
 2 Q. Okay. So in your deposition we reviewed, we reviewed
 3 some interrogatory responses, and we reviewed some
 4 financials. Do you recall that?
 5 A. Yes.
 6 Q. And I'd like you to look at Exhibit P404A, which is a
 7 redacted copy. And you'll see on this --
 8 Your Honor, this is not in evidence yet, so I
 9 just want to slow down and check that box before we get too
 10 far.
 11 So this is Deposition Exhibit Number 407, which
 12 was Plaintiff's Trial Exhibit 404A, which we've redacted
 13 consistent with the ninth supplemental interrogatory
 14 responses.
 15 Mr. Harkin, do you recall seeing this at your
 16 deposition?
 17 A. Generally, yes.
 18 Q. Okay.
 19 Your Honor, I move to admit Exhibit P404A.
 20 MS. JANUS: No objection.
 21 THE COURT: P404A is received.
 22 BY MS. KLIEBENSTEIN:
 23 Q. And the title of this document is Federal Insurance
 24 Company's Fifth Supplemental Answer to Plaintiff's
 25 Interrogatory Number 16 and Sixth Supplemental Answer to

1 page 10 where it defines interrogatory number 17.
 2 And let's blow that up.
 3 And interrogatory number 17 is, "For all
 4 insurance policies in connection with which the Blaze
 5 Advisor software was used, the gross written premium of
 6 defendants and the gross written premium of each related
 7 company, including the specific identification of each
 8 related company, for each quarter from March 30th, 2016, to
 9 date."
 10 Do you agree with my reading of interrogatory
 11 number 17?
 12 A. Yes.
 13 Q. So I wanted to spend some time confirming how the
 14 numbers, if we can scroll back out and back to
 15 interrogatory number 16. I just want to take the time to
 16 confirm for the record how the numbers were pulled.
 17 Let's go to 16. Perfect. Now move forward one
 18 page, Mr. Mayleben. All right.
 19 So on that page, do you see a table titled
 20 DecisionPoint?
 21 A. Yes.
 22 Q. And in your deposition, I asked you what's your
 23 understanding of the information that's --
 24 MS. JANUS: Objection.
 25 THE COURT: Sustained. You can ask him the

1893**1895**

1 Plaintiff's Interrogatory Number 17.
 2 Do you see that?
 3 A. I do.
 4 Q. And so this was an interrogatory, a question, from FICO
 5 to the defendants. Do you agree with that?
 6 A. Yes.
 7 Q. And the defendants provided answers to FICO, correct?
 8 A. Correct.
 9 Q. And in our deposition we went through these
 10 interrogatories to determine where the gross written
 11 premium revenue dollars, where they came from, how they
 12 were collected. Do you recall that?
 13 A. Yes.
 14 Q. Let's just take the time to look at interrogatory
 15 number 16 and number 17.
 16 And I have interrogatory number 16 up on the
 17 screen. And it is, it says, "For all insurance policies in
 18 connection with which the Blaze Advisor software was used,
 19 the gross written premium of defendants and the gross
 20 written premium of each related company, including the
 21 specific identification of each related company, for each
 22 year from 2007 to 2012."
 23 Do you agree with that?
 24 A. Yes.
 25 Q. And then let's go just to level set, let's go to

1 question directly and then impeach him with the deposition,
 2 if need be.
 3 MS. KLIEBENSTEIN: We can go that route too.
 4 At a 10,000-foot level what is your understanding
 5 of the information that's contained in this first table
 6 titled DecisionPoint, for DecisionPoint?
 7 THE WITNESS: It is the gross written premium and
 8 policy count that ran through the DecisionPoint application
 9 and used the Blaze software.
 10 BY MS. KLIEBENSTEIN:
 11 Q. And scrolling back out and down.
 12 For CSI Express, can you tell me, same question,
 13 right, at a 10,000-foot level, what data is reflected in
 14 that table?
 15 A. It is the gross written premium and the policy count
 16 for policies that ran through CSI Express and used the
 17 Blaze software.
 18 Q. And I'm not, I'm not sure if this is a distinction with
 19 any difference or not, but in your deposition you told me
 20 it is policy count, written premium associated with those
 21 policies and writing companies for the policies that ran
 22 through the automated renewal process and/or -- sorry.
 23 Wrong one.
 24 Yeah. Okay. CSI Express. I asked you the
 25 second table titled CSI Express Automated Renewal and

1896**1898**

1 Profitability Indicator, can you tell me at a 10,000 foot
 2 level what data is reflected in that label.
 3 And I think this is what you just said, but I
 4 just want to make sure we're on the same page. It's the
 5 policy count, written premium associated with those
 6 policies and writing companies for the policies that ran
 7 through the Automated Renewal Process and/or Profitability
 8 Indicator for the, that used the Blaze software.
 9 Are we saying the same thing?
 10 A. Yes.
 11 Q. Okay. Perfect.
 12 And let's scroll back out and go to the next page
 13 and the next page and the next page.
 14 And here we, at the very top, we have Premium
 15 Booking. And I'll ask you -- I'd like the table
 16 highlighted.
 17 I'll ask you the same question. At a 10,000-foot
 18 level, can you tell me what data is reflected in this
 19 table?
 20 A. It's the policy count and gross written premium that
 21 ran through the premium booking system and used the Blaze
 22 software.
 23 Q. And then let's scroll out and go down to CUW-IM.
 24 And I'll ask you the same question again. At a
 25 10,000-foot level, what is the data that's shown in this

1 page 102 and 103 of your deposition. I don't want to put
 2 words in your mouth.
 3 A. Raleigh data center, correct.
 4 Q. Okay. And we just covered the gathering process for
 5 interrogatory number 16. If I asked you, just so we can
 6 move through this quickly, the same questions for
 7 interrogatory number 17 for the applications DecisionPoint,
 8 CSI Express, Premium Booking, CUW-IM, TAPS and IRMA, could
 9 you tell me at a 10,000-foot level how, what that data
 10 reflects?
 11 A. The data reflects the policy count and associated gross
 12 written premium and writing company that ran through the
 13 applications you listed and used the Blaze software.
 14 Q. For the policies that ran through the applications and
 15 utilized Blaze Advisor software, correct?
 16 A. Correct.
 17 Q. Okay. We also talked about Legacy ACE writing
 18 companies in the context of interrogatory number 17. And
 19 if you could move to page 15 of your interrogatory.
 20 Do you agree that the writing companies listed in
 21 the middle of the left-hand column, the following are
 22 Legacy ACE Writing Companies: ACE American Insurance Co.,
 23 ACE Fire Underwriters Insurance, ACE Property and Casualty,
 24 Illinois Union Insurance, Indemnity Insurance Co., Pacific
 25 Employers Insurance, Westchester Surplus Sidelines and WFIC

1897**1899**

1 table?
 2 A. This is the policy count, written premium and writing
 3 companies for policies that went through CUW-IM and used
 4 the Blaze software.
 5 Q. And let's scroll out.
 6 And the -- you have this document in front of
 7 you. We also have IRMA and the TAPS applications. Well
 8 actually wait. Just the IRMA, just the IRMA application in
 9 here.
 10 If I asked you the same answer or the same
 11 question, at a 10,000-foot level what data is reflected in
 12 this, would you give me the same answer?
 13 A. Yes.
 14 Q. Okay. Then let's move forward to interrogatory number
 15 17. And in interrogatory number 17 we have, again,
 16 DecisionPoint, CSI Express, CUW-IM, TAPS, IRMA, and Premium
 17 Booking.
 18 Do you recall the location of the data center at
 19 which Blaze Advisor was -- Blaze Advisor software was
 20 installed that's used in these applications?
 21 A. I don't recall it, no.
 22 Q. Is it the Raleigh, North Carolina, data center?
 23 A. If that's what I said in the deposition, yeah. I was
 24 prepped for the deposition at that time.
 25 Q. And if you want to refresh your recollection, I'm on

1 for business effective 1/1/11?
 2 A. Yes.
 3 Q. I want to spend a little bit of time on the expense
 4 information that we looked at in your deposition, if we
 5 could.
 6 So in your deposition we look at, we looked at
 7 some spreadsheets that had expenses on them, like claims
 8 losses, commissions and other general expenses in running a
 9 business. Do you agree with that?
 10 A. We did look at some schedules that had that information
 11 on it, yes.
 12 Q. And I asked you, I asked you about the policies that we
 13 saw in interrogatories number 16 and 17, and particularly
 14 as it related to Premium Booking. For the policies that we
 15 saw in Exhibit 16 and 17, would you agree that it's
 16 extremely difficult, it's very difficult to identify
 17 expenses directly related to the policies we looked at in
 18 interrogatory number 17?
 19 A. I would say we don't track or identify expenses at a
 20 policy level.
 21 Q. So you would agree it's, it would be impossible,
 22 actually, to identify those expenses under your
 23 recordkeeping?
 24 A. Under our recordkeeping, yes.
 25 Q. And then we also went through one -- we went through a

<p>1 UNITED STATES DISTRICT COURT 2 DISTRICT OF MINNESOTA</p> <p>3 -----</p> <p>4 Fair Isaac Corporation,) a Delaware Corporation,) File No. 16-cv-1054(DTS)</p> <p>5 Plaintiff,)</p> <p>6 v.)</p> <p>7 Federal Insurance Company,) Courtroom 14W an Indiana corporation,) Minneapolis, Minnesota 8 and ACE American Insurance) Friday, March 10, 2023 Company, a Pennsylvania) 9:08 a.m. 9 Corporation,)</p> <p>10 Defendants.)</p> <p>11 -----</p> <p>12 13 14 BEFORE THE HONORABLE DAVID T. SCHULTZ 15 UNITED STATES DISTRICT COURT MAGISTRATE JUDGE</p> <p>16 (JURY TRIAL PROCEEDINGS - VOLUME XV) 17 (CONFERENCE WITH ATTORNEYS)</p> <p>18 19 20 21 22 Proceedings recorded by mechanical stenography; 23 transcript produced by computer.</p> <p>24 * * *</p> <p>25</p>	<p>2747</p> <p>1 P R O C E E D I N G S 2 I N O P E N C O U R T</p> <p>3 THE COURT: Good morning, everyone. Please be 4 seated.</p> <p>5 All right. We are on the record in the matter of 6 FICO versus Federal, et al., Civil Number 16-1054.</p> <p>7 Counsel for the plaintiff, if you will note your 8 appearances, please.</p> <p>9 MR. HINDERAKER: Your Honor, Allen Hinderaker and 10 Heather Kliebenstein from Merchant & Gould and Jim Woodward 11 from FICO.</p> <p>12 THE COURT: All right. Good morning to all of 13 you.</p> <p>14 Counsel for Federal, if you will note your 15 appearances.</p> <p>16 MS. GODESKY: Good morning, Your Honor. Leah 17 Godesky from O'Melveny for the defendants.</p> <p>18 MS. JANUS: Leah Janus and Terry Fleming from 19 Fredrikson & Byron for the defendants.</p> <p>20 THE COURT: All right. Thank you. Good morning 21 to the three of you and people in the gallery.</p> <p>22 Thanks for coming here this morning. I wanted to 23 let you know what I was going to do.</p> <p>24 I am going to accept the verdict on disgorgement 25 and enter judgment on the verdict today. That will begin</p>
<p>2748</p> <p>1 <u>APPEARANCES:</u></p> <p>2 For Plaintiff: MERCHANT & GOULD P.C. BY: ALLEN W. HINDERAKER 3 HEATHER J. KLIEBENSTEIN 4 PAIGE S. STRADLEY 5 MICHAEL A. ERBELE 6 JOSEPH W. DUBIS GABRIELLE L. KIEFER 150 South Fifth Street, #2200 Minneapolis, Minnesota 55402</p> <p>7 For Defendants: FREDRIKSON & BYRON BY: TERRENCE J. FLEMING 8 LEAH C. JANUS 9 CHRISTOPHER D. PHAM RYAN C. YOUNG 10 PANHIA VANG 200 South Sixth Street, #4000 Minneapolis, Minnesota 55402</p> <p>11 O'MELVENY & MYERS LLP 12 BY: LEAH GODESKY 13 ANTON METLITSKY 14 DARYN E. RUSH 15 ROXANA GUIDERO Times Square Tower 7 Times Square New York, New York 10036</p> <p>16 Court Reporter: RENEE A. ROGGE, RMR-CRR 17 United States District Courthouse 300 South Fourth Street, Box 1005 18 Minneapolis, Minnesota 55415</p> <p>19 * * *</p> <p>20 21 22 23 24 25</p>	<p>2750</p> <p>1 the clock for post-trial motions, et cetera.</p> <p>2 I told you that I would exercise my own 3 independent judgment on the issue of disgorgement, and I 4 have. I have been considering the issue, well, simply 5 stated, since the motion to strike the jury, but then more 6 intensively since the motion to bifurcate and certainly with 7 the JMOL and hearing the evidence.</p> <p>8 I, nonetheless, wanted the jury's input so that I 9 could certainly reexamine my own decision, should that be 10 necessary; but I'm persuaded and I was persuaded based on 11 the law and the evidence at trial that this is not only a 12 proper result, I am persuaded that it is the proper result.</p> <p>13 So that's what I'm going to do. I don't want to 14 spend time and resources of the parties having you 15 extensively brief an issue that I know how I will rule on it 16 anyway. So that's why I called you in here this morning.</p> <p>17 That's what I'm going to do. And that will, as I said, 18 start your clock running.</p> <p>19 While you're all here, I also want to put this out 20 there for your consideration. Sometimes parties obviously 21 negotiate potential settlements after a trial. If the 22 parties decide they want to do that, and if the parties 23 decide they want to utilize the services of a magistrate 24 judge here, I will facilitate that happening. It wouldn't 25 be me; but if the parties met and decided they thought a</p>

2751

1 particular magistrate judge in this district would be well
 2 suited to that, we would make sure you got in front of that
 3 magistrate judge. But, of course, you know, that's all
 4 entirely up to the parties.

5 So with that, I'll just ask if there are any
 6 questions. Mr. Hinderaker?

7 MR. HINDERAKER: No questions from the plaintiff,
 8 Your Honor.

9 THE COURT: All right. Well, maybe there is one.

10 MR. HINDERAKER: Actually, with the judgment
 11 entered and the clock running, you know, obviously there
 12 will be the briefing that follows from that, and I think the
 13 particular issue that I was just alerted to will be included
 14 in that, in that briefing. So for today and we understand
 15 your decision --

16 THE COURT: Understood.

17 MR. HINDERAKER: -- I don't think there's anything
 18 to be brought up now.

19 THE COURT: Okay. Very well. Thank you.

20 Ms. Godesky, any questions or needed
 21 clarification?

22 MS. GODESKY: The only question we have at this
 23 point, Your Honor, would be whether we could get a modest
 24 extension of the deadline for a JNOV motion.

25 THE COURT: What amount of time are you seeking?

2752

1 MS. GODESKY: An extra two weeks.

2 THE COURT: I will, yes, give both parties an
 3 extra two weeks.

4 MS. GODESKY: Okay. Thank you.

5 THE COURT: So that would be 42 days, correct?
 6 That's my calculation.

7 MS. GODESKY: I think that's right, mm-hmm.

8 THE COURT: Okay. I will put something on the
 9 record or on the ECF setting a deadline by which you should
 10 file any such motions.

11 Yes, Mr. Hinderaker.

12 MR. HINDERAKER: And then with respect to
 13 attorneys fees, prejudgment interest and so forth, you know,
 14 I think the rule is a 14-day clock. If there's an extension
 15 on this, can we get those dates extended as well?

16 THE COURT: Yes. We'll make them all 42 days, and
 17 we'll go from there. Okay?

18 MR. HINDERAKER: Very good.

19 THE COURT: Okay. Thank you, everyone.

20 MR. HINDERAKER: Thank you.

21 MS. GODESKY: Thank you.

22 (Court adjourned at 9:14 a.m., 03-10-2023.)

23 I, Renee A. Rogge, certify that the foregoing is a
 24 correct transcript from the record of proceedings in the
 above-entitled matter.

25 Certified by: /s/Renee A. Rogge
 Renee A. Rogge, RMR-CRR